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**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEVADA**

11 MICHAEL EDGING,  
12 Plaintiff,  
13 v.  
14 C. R. BARD, INC. and BARD PERIPHERAL  
15 VASCULAR, INC.,  
16 Defendants.

11 CASE NO. 2:21-cv-00322-RFB-BNW  
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**STIPULATION AND [PROPOSED]  
ORDER TO STAY DISCOVERY AND  
ALL PRETRIAL DEADLINES**

18 Plaintiff Michael Edging and Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc.  
19 (collectively “Bard”) (Plaintiff and Bard are collectively referred to herein as “the Parties”) pursuant  
20 to Fed. R. Civ. P. 26 and the Court’s inherent powers, respectfully request that this Court enter an  
21 Order temporarily staying discovery and all pretrial deadlines imposed by the Court, the Local Rules,  
22 and the Federal Rules of Civil Procedure for ninety (90) days to permit them to pursue negotiations  
23 of a settlement of this and all cases of Plaintiff’s counsel recently remanded from the MDL pursuant  
24 to the MDL Court’s February 11, 2021 Amended Suggestion of Remand and Transfer Order (Fifth)  
25 (“Fifth Remand Order”).

26 Plaintiff’s counsel and Defendants have previously settled in principle numerous cases in the  
27 MDL concerning Bard inferior vena cava (“IVC”) filters. The Parties believe that a stay is necessary  
28 in this case to conserve their resources and attention so that they may attempt to resolve it and the

1 claims of other such plaintiffs represented by Plaintiff's counsel that were recently remanded to  
 2 district courts across the country. Accordingly, the Parties jointly request that the Court enter a stay  
 3 of discovery and all pretrial deadlines in this case for a period of ninety (90) days. If Plaintiff has not  
 4 filed dismissal papers within ninety (90) days from the stay being granted, the Parties request the  
 5 opportunity to file a joint status report regarding the status of the settlement.

## 6 **I. Background**

7 Plaintiff's counsel represents plaintiffs with cases in the *In re: Bard IVC Filters Products*  
 8 *Liability Litigation*, MDL 2641 (the "MDL"), as well as cases that have been transferred or remanded  
 9 from the MDL to courts across the country, involving claims against Bard for injuries they contend  
 10 arise out of their use of Bard's IVC filters. The Parties reached a settlement in principle concerning  
 11 the majority of the Plaintiff's counsel's IVC filter cases and have finalized the details of that  
 12 settlement with most of their clients. However, a small number of those plaintiffs "opted out" of the  
 13 settlement. The cases remanded pursuant to the MDL's Fifth Remand Order included those cases that  
 14 were previously dismissed but for which the MDL Court reinstated prior to remanding, since the  
 15 plaintiff had opted out of the settlement and a final settlement had not been reached. With respect to  
 16 these cases, including this one, counsel for the Parties have renewed discussions in an attempt to  
 17 achieve a settlement of the cases of these remaining plaintiffs represented by Plaintiff's counsel.  
 18 Counsel for the Parties believe that their resources are best directed to focusing their efforts on  
 19 potential settlement discussions, especially given their past history of successful settlement  
 20 discussions relating to cases in this MDL. Thus, the Parties jointly move this Court to enter a stay of  
 21 all discovery and pretrial deadlines in this case for a period of ninety (90) days.

## 22 **II. Arguments and Authorities**

### 23 **A. The Court Has Authority to Grant the Requested Stay.**

24 Pursuant to Federal Rules of Civil Procedure 6(b) and 26, and the Court's inherent authority  
 25 and discretion to manage its own docket, this Court has the authority to grant the requested stay. Fed.  
 26 R. Civ. P. 6(b) ("When an act may or must be done within a specified time the court may, for good  
 27 cause, extend the time...."); Fed. R. Civ. P. 26(a) ("A party or any person from whom discovery is  
 28 sought may move for a protective order in the court where the action is pending . . . The court may,

1 for good cause, issue an order to protect a party or person from annoyance, embarrassment,  
 2 oppression, or undue burden or expense.”). This Court therefore has broad discretion to stay  
 3 proceedings as incidental to its power to control its own docket – particularly where, as here, a stay  
 4 would promote judicial economy and efficiency. *Crawford-El v. Britton*, 523 U.S. 574, 598 (1998);  
 5 *Sierra Club v. U.S. Army Corps of Engineers*, 446 F.3d 808, 816 (8<sup>th</sup> Cir. 2006) (*citing Clinton v.*  
 6 *Jones*, 520 U.S. 681, 706 (1997)).

7 A stipulation to stay proceedings, like the Parties seek here, is an appropriate exercise of this  
 8 Court’s jurisdiction. See *Landis v. N. Am. Co.*, 299 U.S. 248, 254-255 (1936) (explaining a court’s  
 9 power to stay proceedings is incidental to its inherent power to control the disposition of the cases on  
 10 its docket to save the time and effort of the court, counsel, and the parties).

11 The power to stay proceedings is incidental to the power inherent in every court to  
 12 control the disposition of the causes on its docket with economy of time and effort  
 13 for itself, for counsel, and for litigants. How this can best be done calls for the  
 14 exercise of judgment, which must weigh competing interests and maintain an even  
 15 balance.

16 *Id.* (*citing Kansas City S. Ry. Co. v. United States*, 282 U.S. 760, 763 (1931)); *see also CMAX,*  
 17 *Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962) (district courts possess “inherent power to control the  
 18 disposition of the causes on its docket in a manner which will promote economy of time and effort  
 19 for itself, for counsel, and for litigants”); *Garlock Sealing Tech., LLC v. Pittsburgh Corning Corp.*  
 20 (*In re Pittsburgh Corning Corp.*), No. 11-1406, 11-1452 2012 U.S.  
 21 Dist. LEXIS 86193, \*11 (W.D. Mo. June 21, 2012) (noting that a court’s power to stay proceedings  
 22 is incidental to its power to control the disposition of causes on its docket).

23 Furthermore, Federal Rules of Civil Procedure 26(c) and 26(d) also vest the Court with  
 24 authority to limit the scope of discovery or control its sequence and may grant a stay to allow  
 25 parties to negotiate a settlement. *Britton*, 523 U.S. at 598.

26 **B. Good Cause Exists to Grant the Requested Stay.**

27 Plaintiff and Defendants are actively engaging in settlement negotiations. The Parties  
 28 further and in good faith believe that a final settlement is forthcoming that shall resolve this and other  
 cases within the inventory, especially given their past history of successful settlement discussions  
 relating to cases in this MDL. The Parties do not seek a stay in bad faith, to unduly burden any party

1 or the Court or cause unnecessary delay, but to support the efficient and expeditious resolution of this  
 2 litigation. Granting the stay here will certainly save the time and effort of the Court, counsel, and the  
 3 parties, promote judicial economy and effectiveness, and provide counsel an opportunity to resolve  
 4 their issues without additional litigation expenses for their clients.

5 Facilitating the Parties' efforts to resolve their dispute entirely through settlement  
 6 negotiations is reasonable and constitutes good cause for granting the requested stay of discovery and  
 7 other pretrial deadlines. The Parties agree that the relief sought herein is necessary to handle the case  
 8 in the most economical fashion, and that the relief sought in this Agreed Stipulation is not for delay,  
 9 but so that justice may be done.

10 **III. Conclusion**

11 For the foregoing reasons, the Parties respectfully request that the Court enter a stay of all  
 12 activity in this case, for a period of ninety (90) days. If Plaintiff has not filed dismissal papers within  
 13 ninety (90) days from the stay being granted, the Parties request the opportunity to file a joint status  
 14 report regarding the status of the settlement.

15 Respectfully submitted,

16 DATED this 31<sup>st</sup> day of March 2021.

17 DAVIS BETHUNE JONES, LLC

GREENBERG TRAURIG, LLP

18 By: /s/ Grant L. Davis

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23 **ORDER**

24 **IT IS SO ORDERED**

25 **DATED:** 4:28 pm, April 02, 2021

26   
 27 **BRENDA WEKSLER**  
 28 **UNITED STATES MAGISTRATE JUDGE**